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13
14 IN THE UNITED STATES DISTRICT COURT
15 FOR THE EASTERN DISTRICT OF CALIFORNIA

16 UNITED STATES OF AMERICA,
17 Plaintiff,
18 vs.
19 ALBERTO SOTO JR.,
20 Defendant.

21 Case No. 1:20-mj-00089-SAB
22 STIPULATION TO MODIFY CONDITION OF
23 PROBATION PURSUANT TO 18 U.S.C.
24 § 3563(C); ORDER

25 IT IS HEREBY STIPULATED, by and between the parties, through their respective
26 counsel, Assistant United States Attorney Alexandre Dempsey, counsel for the plaintiff, and
27 Assistant Federal Defender Erin Snider, counsel for Alberto Soto, Jr., that the Court may modify
28 condition 4 to excuse payments in December 2022 and January 2023 and reduce the total
financial obligation owed to \$1,640.00.

29 On May 19, 2022, Mr. Soto admitted to violating the conditions of his probation by
30 failing to pay his fine. *See* ECF #25. This Court sentenced Mr. Soto to 24 months of
31 unsupervised probation, with the condition that he pay an \$1,800 fine and a \$10 special
32 assessment for a total financial obligation of \$1,810. *See* ECF #26. The Court set a payment
33 schedule of \$85 per month, beginning June 15, 2022. *See id.* The Court set a review hearing for
34 November 16, 2023. *See id.*

Mr. Soto made payments in June, July, August, September, October, and November 2022. See Ex. A at 4. However, on December 11, 2022, he was involved in a car accident, during which he totaled his car. Having lost his means of transportation, Mr. Soto was unable to go to work for two weeks. In addition to losing income as a result of his car accident, Mr. Soto, who is a fieldworker, has suffered reduced work hours due to the recent storms. In light of these changes to his financial situation, Mr. Soto has been unable to make a payment in December 2022 and will not be able to make his January 2023 monthly payment. He anticipates that he will have financially recovered by February 2023 and will be able to recommence monthly payments then.

In light of the change in Mr. Soto's financial circumstances, the parties jointly request that the Court modify condition 4 of Mr. Soto's probation to excuse monthly payments for December 2022 and January 2023. The parties further request that the Court reduce the total financial obligation owed by \$170.00—the amount Mr. Soto would have paid in December 2022 and January 2023 had he not experienced financial hardship. The parties agree that extinguishing those payments, rather than extending probation for two months to allow Mr. Soto to make up the missed payments, is reasonable and fair given that Mr. Soto made monthly payments up until his car accident and timely notified counsel of the change in his financial condition. An extension of probation would amount to punishing Mr. Soto for his financial hardship, which neither party believes appropriate under the circumstances.

In light of the foregoing, the parties request that the Court modify condition 4 to excuse monthly payments for December 2022 and January 2023 and reduce the total financial obligation to \$1,640.00. Mr. Soto waives his right to a hearing on the modification of the terms of probation.

Respectfully submitted,

PHILLIP A. TALBERT
United States Attorney

Date: January 12, 2023

/s/ Alexandre Dempsey
ALEXANDRE DEMPSEY
Assistant United States Attorney
Attorney for Plaintiff

HEATHER E. WILLIAMS
Federal Defender

Date: January 12, 2023

/s/ Erin Snider
ERIN SNIDER
Assistant Federal Defender
Attorney for Defendant
ALBERTO SOTO, JR.

ORDER

IT IS SO ORDERED. Pursuant to 18 U.S.C. § 3563(c), the Court hereby modifies condition 4 as follows:

4. The defendant shall pay a fine of \$1,630.00 and a special assessment of \$10.00 for a total financial obligation of \$1,640.00 with monthly payments of \$85.00 commencing on 6/15/2022 and each month thereafter by the 15th of the month until paid in full. *The defendant is excused from making monthly payments in December 2022 and January 2023 in light of a change in his financial circumstances. The defendant shall resume making monthly payments on February 15, 2023.*

All other conditions previously imposed remain in full force and effect.

IT IS SO ORDERED.

Dated: **January 13, 2023**



UNITED STATES MAGISTRATE JUDGE